

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOAN OSBUCAN CARLING

2365 Paseo Los Gatos
Chula Vista, CA 91914

Registered Nurse License No. 344642

Respondent

Case No. 2010-83

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on May 27, 2010.

IT IS SO ORDERED April 27, 2010.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LORETTA A. WEST
Deputy Attorney General
4 State Bar No. 149294
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Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-83

13 **JOAN OSBUCAN CARLING**
2365 Paseo Los Gatos
14 Chula Vista, CA 91914

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Registered Nurse License No. 344642**

16 Respondent.
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19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Accusation.

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
26 Board of Registered Nursing. She brought this action solely in her official capacity and is
27 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
28 by Loretta A. West, Deputy Attorney General.

2. Respondent Joan Osbucan Carling is represented in this proceeding by attorney John A. Crawford, Jr., whose address is P.O. Box 1776, Escondido, CA 92033.

3. On or about January 1, 1982, the Board of Registered Nursing issued Registered Nurse License No. 344642 to Joan Osbucan Carling (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2010-83 and will expire on April 30, 2010, unless renewed.

JURISDICTION

4. On July 31, 2009, Accusation No. 2010-83 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 19, 2009. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2010-83 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2010-83. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 action between the parties, and the Board shall not be disqualified from further action by having
2 considered this matter.

3 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
4 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
5 effect as the originals.

6 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
11 writing executed by an authorized representative of each of the parties.

12 15. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Board may, without further notice or formal proceeding, issue and enter the following
14 Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Registered Nurse License No. 344642 issued to Joan
17 Osbucan Carling is revoked. However, the revocation is stayed and Respondent is placed on
18 probation for three (3) years on the following terms and conditions.

19 **Severability Clause.** Each condition of probation contained herein is a separate and
20 distinct condition. If any condition of this Order, or any application thereof, is declared
21 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
22 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
23 and enforceable to the fullest extent permitted by law.

24 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A
25 full and detailed account of any and all violations of law shall be reported by Respondent to the
26 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
27 compliance with this condition, Respondent shall submit completed fingerprint forms and
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1 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
2 as part of the licensure application process.

3 **Criminal Court Orders:** If Respondent is under criminal court orders, including
4 probation or parole, and the order is violated, this shall be deemed a violation of these probation
5 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

6 2. **Comply with the Board's Probation Program.** Respondent shall fully
7 comply with the conditions of the Probation Program established by the Board and cooperate with
8 representatives of the Board in its monitoring and investigation of the Respondent's compliance
9 with the Board's Probation Program. Respondent shall inform the Board in writing within no
10 more than 15 days of any address change and shall at all times maintain an active, current license
11 status with the Board, including during any period of suspension.

12 Upon successful completion of probation, Respondent's license shall be fully restored.

13 3. **Report in Person.** Respondent, during the period of probation, shall
14 appear in person at interviews/meetings as directed by the Board or its designated representatives.

15 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
16 or practice as a registered nurse outside of California shall not apply toward a reduction of this
17 probation time period. Respondent's probation is tolled, if and when she resides outside of
18 California. Respondent must provide written notice to the Board within 15 days of any change of
19 residency or practice outside the state, and within 30 days prior to re-establishing residency or
20 returning to practice in this state.

21 Respondent shall provide a list of all states and territories where she has ever been licensed
22 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
23 information regarding the status of each license and any changes in such license status during the
24 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
25 license during the term of probation.

26 5. **Submit Written Reports.** Respondent, during the period of probation,
27 shall submit or cause to be submitted such written reports/declarations and verification of actions
28 under penalty of perjury, as required by the Board. These reports/declarations shall contain

1 statements relative to Respondent's compliance with all the conditions of the Board's Probation
2 Program. Respondent shall immediately execute all release of information forms as may be
3 required by the Board or its representatives.

4 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
5 state and territory in which she has a registered nurse license.

6 **6. Function as a Registered Nurse.** Respondent, during the period of
7 probation, shall engage in the practice of registered nursing in California for a minimum of 24
8 hours per week for 6 consecutive months or as determined by the Board.

9 For purposes of compliance with the section, "engage in the practice of registered nursing"
10 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
11 non-direct patient care position that requires licensure as a registered nurse.

12 The Board may require that advanced practice nurses engage in advanced practice nursing
13 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

14 If Respondent has not complied with this condition during the probationary term, and
15 Respondent has presented sufficient documentation of her good faith efforts to comply with this
16 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
17 extension of Respondent's probation period up to one year without further hearing in order to
18 comply with this condition. During the one year extension, all original conditions of probation
19 shall apply.

20 **7. Employment Approval and Reporting Requirements.** Respondent shall
21 obtain prior approval from the Board before commencing or continuing any employment, paid or
22 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
23 performance evaluations and other employment related reports as a registered nurse upon request
24 of the Board.

25 Respondent shall provide a copy of this Decision to her employer and immediate
26 supervisors prior to commencement of any nursing or other health care related employment.

27 In addition to the above, Respondent shall notify the Board in writing within seventy-two
28 (72) hours after she obtains any nursing or other health care related employment. Respondent

1 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
2 separated, regardless of cause, from any nursing, or other health care related employment with a
3 full explanation of the circumstances surrounding the termination or separation.

4 8. **Supervision.** Respondent shall obtain prior approval from the Board
5 regarding Respondent's level of supervision and/or collaboration before commencing or
6 continuing any employment as a registered nurse, or education and training that includes patient
7 care.

8 Respondent shall practice only under the direct supervision of a registered nurse in good
9 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
10 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
11 approved.

12 Respondent's level of supervision and/or collaboration may include, but is not limited to the
13 following:

14 (a) Maximum - The individual providing supervision and/or collaboration is present in
15 the patient care area or in any other work setting at all times.

16 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
17 care unit or in any other work setting at least half the hours Respondent works.

18 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
19 person communication with Respondent at least twice during each shift worked.

20 (d) Home Health Care - If Respondent is approved to work in the home health care
21 setting, the individual providing supervision and/or collaboration shall have person-to-person
22 communication with Respondent as required by the Board each work day. Respondent shall
23 maintain telephone or other telecommunication contact with the individual providing supervision
24 and/or collaboration as required by the Board during each work day. The individual providing
25 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
26 patients' homes visited by Respondent with or without Respondent present.

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1 9. **Employment Limitations.** Respondent shall not work for a nurse's
2 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
3 traveling nurse, or for an in-house nursing pool.

4 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
5 registered nursing supervision and other protections for home visits have been approved by the
6 Board. Respondent shall not work in any other registered nursing occupation where home visits
7 are required.

8 Respondent shall not work in any health care setting as a supervisor of registered nurses.
9 The Board may additionally restrict Respondent from supervising licensed vocational nurses
10 and/or unlicensed assistive personnel on a case-by-case basis.

11 Respondent shall not work as a faculty member in an approved school of nursing or as an
12 instructor in a Board approved continuing education program.

13 Respondent shall work only on a regularly assigned, identified and predetermined
14 worksite(s) and shall not work in a float capacity.

15 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
16 request documentation to determine whether there should be restrictions on the hours of work.

17 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
18 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
19 than six months prior to the end of her probationary term.

20 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
21 Respondent shall submit to the Board the original transcripts or certificates of completion for the
22 above required course(s). The Board shall return the original documents to Respondent after
23 photocopying them for its records.

24 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
25 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
26 amount of \$10,000.00 (ten thousand dollars). Respondent shall be permitted to pay these costs in
27 a payment plan approved by the Board, with payments to be completed no later than three months
28 prior to the end of the probation term.

1 If Respondent has not complied with this condition during the probationary term, and
2 Respondent has presented sufficient documentation of her good faith efforts to comply with this
3 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
4 extension of Respondent's probation period up to one year without further hearing in order to
5 comply with this condition. During the one year extension, all original conditions of probation
6 will apply.

7 **12. Violation of Probation.** If Respondent violates the conditions of her
8 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
9 the stay order and impose the stayed discipline (revocation) of Respondent's license.

10 If during the period of probation, an accusation or petition to revoke probation has been
11 filed against Respondent's license or the Attorney General's Office has been requested to prepare
12 an accusation or petition to revoke probation against Respondent's license, the probationary
13 period shall automatically be extended and shall not expire until the accusation or petition has
14 been acted upon by the Board.

15 **13. License Surrender.** During Respondent's term of probation, if she ceases
16 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
17 probation, Respondent may surrender her license to the Board. The Board reserves the right to
18 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
19 take any other action deemed appropriate and reasonable under the circumstances, without further
20 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
21 longer be subject to the conditions of probation.


22 Surrender of Respondent's license shall be considered a disciplinary action and shall
23 become a part of Respondent's license history with the Board. A registered nurse whose license
24 has been surrendered may petition the Board for reinstatement no sooner than the following
25 minimum periods from the effective date of the disciplinary decision:

26 (1) Two years for reinstatement of a license that was surrendered for any reason other
27 than a mental or physical illness; or

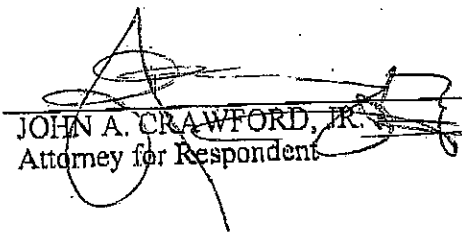
28 (2) One year for a license surrendered for a mental or physical illness.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John A. Crawford. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 3/9/10
JOAN OSBUCAN CARLING
Respondent

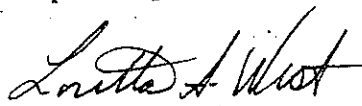
I have read and fully discussed with Respondent Joan Osbucan Carling the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3-9-10
JOHN A. CRAWFORD, JR.
Attorney for RespondentENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 3/9/2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of CaliforniaLINDA K. SCHNEIDER
Supervising Deputy Attorney General
LORETTA A. WEST
Deputy Attorney General
Attorneys for Complainant

SD2009803818

Exhibit A

Accusation No. 2010-83

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LORETTA A. WEST
Deputy Attorney General
4 State Bar No. 149294
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7 Telephone: (619) 645-2141
Facsimile: (619) 645-2061
8 *Attorneys for Complainant*

9
10 **BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2110-83

13 **JOAN OSBUCAN CARLING**
2365 Paseo Los Gatos
14 Chula Vista, CA 91914

A C C U S A T I O N

15 **Registered Nurse License No. 344642**

16 **Respondent.**

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN, (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about January 1, 1982, the Board of Registered Nursing issued Registered
24 Nurse License Number 344642 to Joan Osbucan Carling (Respondent). The Registered Nurse
25 license was in full force and effect at all times relevant to the charges brought herein and will
26 expire on April 30, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 1442 states:

As used in Section 2761 of the code, "gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

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1 8. California Code of Regulations, title 16, section 1443 states:

2 As used in Section 2761 of the code, "incompetence" means the lack of
3 possession of or the failure to exercise that degree of learning, skill, care and
4 experience ordinarily possessed and exercised by a competent registered nurse as
5 described in Section 1443.5.

6 9. California Code of Regulations, title 16, section 1443.5 states:

7 A registered nurse shall be considered to be competent when he/she
8 consistently demonstrates the ability to transfer scientific knowledge from social,
9 biological and physical sciences in applying the nursing process, as follows:

10 (1) Formulates a nursing diagnosis through observation of the client's physical
11 condition and behavior, and through interpretation of information obtained from the
12 client and others, including the health team.

13 (2) Formulates a care plan, in collaboration with the client, which ensures that
14 direct and indirect nursing care services provide for the client's safety, comfort,
15 hygiene, and protection, and for disease prevention and restorative measures.

16 (3) Performs skills essential to the kind of nursing action to be taken, explains
17 the health treatment to the client and family and teaches the client and family how to
18 care for the client's health needs.

19 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
20 subordinates and on the preparation and capability needed in the tasks to be
21 delegated, and effectively supervises nursing care being given by subordinates.

22 (5) Evaluates the effectiveness of the care plan through observation of the
23 client's physical condition and behavior, signs and symptoms of illness, and reactions
24 to treatment and through communication with the client and health team members,
25 and modifies the plan as needed.

26 (6) Acts as the client's advocate, as circumstances require, by initiating action to
27 improve health care or to change decisions or activities which are against the interests
28 or wishes of the client, and by giving the client the opportunity to make informed
decisions about health care before it is provided.

29 COST RECOVERY

30 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
31 administrative law judge to direct a licentiate found to have committed a violation or violations of
32 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
33 enforcement of the case.

34 FACTS

35 11. At all times referenced herein, Respondent was employed as a registered nurse at
36 Sharp Chula Vista Medical Center (SCVMC) from February 11, 2002, until she resigned on
37 December 14, 2002.
38

1 12. On or about June 24, 2002, at approximately 0709, a 39-year-old woman (hereinafter
2 "patient"), pregnant with her first child, was admitted to the labor and delivery unit of SCVMC.
3 The patient was morbidly obese, having gained 72 pounds during her pregnancy. As a result, the
4 patient developed pregnancy-induced hypertension in her last trimester and her obstetrician
5 recommended an induced delivery. Upon admission, the patient was twice administered
6 Cytotec,¹ the second dose four hours after the first. At 1449, the hospital records reflect that the
7 patient's obstetrician was notified of the patient's status. At 1709, a Pitocin² intravenous drip was
8 started on the patient in order to induce contractions. An electronic fetal monitor³ was in place
9 and notations were made in the patient's chart that it was not recording well and required
10 repositioning several times.

11 13. Respondent assumed the primary nursing care of the patient at approximately 1928.
12 At 1932, Respondent made her first entry into the patient's electronic chart noting that the patient
13 was complaining of pain and fentanyl 50 mcg. was administered. At 1940, Respondent charted
14 that slight relief (of pain) was obtained. At 2019, Respondent charted that the patient was still in
15 pain and requesting an epidural; an anesthesiologist was paged. Respondent failed to chart when
16 the epidural was administered. The next chart entry was not until June 26th at 0024, over four
17 hours later, when Respondent noted that the "toco" or tocodynamometer⁴, was frequently
18 readjusted due to difficulty obtaining readings of the patient's uterine contractions. At 0327,
19 Respondent noted that the doctor had arrived. Between 0355 and 0527, there were entries
20 regarding the patient's lack of progress with labor and delivery. At 0511, the obstetrician elected
21 to use vacuum extraction to deliver the baby. The baby's head was delivered at 0519 and severe
22 shoulder dystocia (breach) was encountered in which the baby was essentially trapped in the birth

23 ¹ Cytotec can be used to assist with childbirth (e.g., cervical ripening, induction of labor)
24 and for the treatment of severe bleeding after delivery. When used vaginally for these purposes,
it works by causing the womb muscles to contract.

25 ² Pitocin is a uterine stimulant used to induce labor in women with Rh problems, diabetes,
preeclampsia, or when it is in the best interest of the mother or fetus. It works by causing uterine
26 contractions by changing calcium concentrations in the uterine muscle cells.

27 ³ An electronic fetal monitor (EFM) examines the condition of a baby in the uterus by
noting any unusual changes in its heart rate during labor to ensure normal delivery of a healthy
28 baby. EFM can be utilized either externally or internally in the womb.

⁴ An electronic device for monitoring and recording uterine contractions in labor.

1 canal. After eight minutes of manipulating the baby's body, it was delivered in an advanced stage
2 of fetal hypoxia. Attempts were made to resuscitate the baby, but he was pronounced dead
3 shortly thereafter.

4 14. The patient's Interdisciplinary Plan of Care dated June 25, 2002, at 0815, required the
5 nursing staff to specifically monitor vital signs as indicated, monitor fetal heart rate and periodic
6 changes as indicated, monitor intake/output of fluids, monitor labor progression, and induce/
7 augment labor as ordered. Respondent documented the patient's vitals plots as to cervical
8 position⁵ during the time that Respondent assumed primary care of the patient and until 0327 the
9 following morning when the obstetrician arrived, as follows:

	24 Jun 1951	24 Jun 2129	24 June 2236	25 Jun 0324
Dilation	5.0	8.0	9.0	10.0
Effacement	90%	90%	95%	100%
Station	-1	-1	0	1

13 15. Respondent failed to perform any pelvic examinations on the patient between 2236 on
14 June 24, and 0324 on June 25 even though the patient's Interdisciplinary Plan of Care required
15 that Respondent monitor and document any abnormalities in the progress of labor.

16 16. Respondent failed to notify the treating obstetrician of the patient's failure to progress
17 in labor, until after the doctor arrived bedside at 0327 on June 25, 2002.

18 17. The SCVMC Policy No. 47200 (*Fetal Monitoring: Interpretations and*
19 *Interventions*), effective November 2000, identified hypertension and failure to progress in labor
20 as high risk conditions that warrant more frequent fetal heart rate monitoring.

21 18. The Division of Investigation interviewed Respondent on or about January 11, 2008.
22 Respondent stated that it was hospital policy to conduct vaginal examinations every two hours if
23 the patient is not experiencing pain and to record those observations in the electronic nursing
24 notes. Respondent had no explanation why her nursing notes did not document the patient
25 receiving an epidural. Respondent could not explain why she did not recognize the patient's

26
27 ⁵ Effacement refers to the shortening of the vaginal portion of the cervix and thinning of
28 its walls as it is stretched and dilated by the fetus during labor. The extent of effacement,
determined by vaginal examination, is expressed as a percentage of full effacement.

1 arrest of dilation and lack of progression of labor. Respondent admitted she failed to notify the
2 obstetrician of the patient's protracted labor.

3 19. The Division of Investigation interviewed Respondent a second time, on or about
4 February 26, 2008. Respondent admitted that the computer system used for entering notes in the
5 patient's chart was new to her and she could not recall how to review what she had entered in the
6 chart via the computer. Respondent stated that she did not see a lack of progress in the patient's
7 labor. Respondent further stated that she was caring for two patients that evening and it was
8 difficult to care for them at the same time and she did not notify the charge nurse of this problem.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Incompetence)**

11 20. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1) of
12 the Code, for unprofessional conduct/incompetence, in that on or about June 24 to June 25, 2002,
13 while designated as the primary nurse for a high risk patient in labor, Respondent did not exercise
14 that degree of learning, skill, care and experience ordinarily possessed and exercised by a
15 competent registered nurse, as described above in paragraphs 11 through 17 which are
16 incorporated herein by reference, as follows:

17 a. Respondent failed to chart the administration of an anesthetic epidural;

18 b. Respondent failed to assess both the patient's progress of labor and the quality of
19 the contractions, prior to changing rate of the Pitocin drip from 10 to 11 mu/min at 2237, and
20 from 11 to 12 mu/min at 0007;

21 c. Respondent failed to perform a pelvic examination of this high risk patient during
22 labor for a period of over four hours while patient was 9 cm dilated and at station 0 effacement;

23 d. Respondent failed to ensure that there was a record of uterine activity on the
24 electronic monitoring strip or to use some form of internal uterine activity monitoring on this high
25 risk patient during labor;

26 e. Respondent failed to notify the treating obstetrician of inability to record uterine
27 activity with the electronic monitor;

1 f. Respondent failed to assess and notify the treating physician of abnormalities in
2 fetal heart rate, including fetal heart rate decelerations, wandering baseline, and decreased
3 variability, during labor and between the hours of 0236 and 0324;

4 g. Respondent failed to assess and document the patient's abnormal progress of labor
5 and arrest of dilation; and,

6 h. Respondent failed to notify the treating obstetrician of the patient's abnormal
7 progress through labor, and arrest of dilation.

8
9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 21. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1) of
12 the Code, for unprofessional conduct/gross negligence, in that on or about June 24 to June 25,
13 2002, while designated as the primary nurse for a high risk patient in labor, Respondent's conduct
14 was an extreme departure from the standard of care which, under similar circumstances, would
15 have ordinarily been exercised by a competent registered nurse. Respondent's gross negligence
16 included repeated failure to provide nursing care as required or failure to provide care or to
17 exercise ordinary precaution in a single situation which the nurse knew, or should have known,
18 could have jeopardized the client's health or life, as described above in paragraphs 11 through 17
19 which are incorporated herein by reference, as follows:

20 a. Respondent failed to assess and document the patient's abnormal progress of
21 labor;

22 b. Respondent failed to perform a pelvic examination of a high risk patient during
23 labor for a period of over four hours while patient was 9 cm dilated and at station 0 effacement;

24 c. Respondent failed to ensure that there was a record of uterine activity on the
25 electronic monitoring strip or to use some form of internal uterine activity monitoring on this high
26 risk patient;

27 d. Respondent failed to notify the treating obstetrician of inability to record uterine
28 activity with the electronic monitor;

1 e. Respondent failed to assess and notify the treating physician of abnormalities in
2 fetal heart rate, including fetal heart rate decelerations, wandering baseline, and decreased
3 variability, during labor and between the hours of 0236 and 0324;

4 f. Respondent failed to recognize the patient's abnormal progress through labor,
5 and/or arrest of dilation; and,

6 g. Respondent failed to notify the treating obstetrician of the patient's abnormal
7 progress through labor, and/or arrest of dilation.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 344642, issued to Joan
12 Osbucan Carling;

13 2. Ordering Joan Osbucan Carling to pay the Board of Registered Nursing the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 7/31/09

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant:

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